

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT**

ALICE H. ALLEN, et al.,)
)
Plaintiffs,)
)
v.) Civil Action No. 5:09-CV-00230-cr
)
DAIRY FARMERS OF AMERICA, INC., and)
DAIRY MARKETING SERVICES, LLC,)
)
Defendants.)

[PROPOSED] ORDER

Upon consideration of Dairy Farmer Subclasses' Renewed Motion for Preliminary Approval of Proposed Settlement with Defendants Dairy Farmers of America, Inc. and Dairy Marketing Services, LLC ("Motion") (Dkt. ____), it is hereby ORDERED as follows:

1. The Motion is GRANTED.
2. The Court finds that the proposed settlement between the DFA/DMS Subclass and Non-DFA/DMS Subclass, and Defendants Dairy Farmers of America, Inc. and Dairy Marketing Services, LLC ("Settling Defendants"), as set forth in the Settlement Agreement attached as Exhibit A to the Memorandum, and subject to final determination following proper notice and a fairness hearing, is sufficiently fair, reasonable, and adequate to authorize dissemination of notice to the Subclasses.
3. The Court approves the form and content of the Notice of Proposed Settlement ("Notice") and Summary Notice of Proposed Settlement ("Summary Notice"), substantially in the form attached to the Motion as Exhibit D and E to the Memorandum, respectively.
4. The Court finds that the mailing and publication of the Notice and Summary Notice, respectively, in the manner set forth herein constitute the best notice practicable under

the circumstances, are due and sufficient notice to all persons entitled thereto and comply fully with the requirements of Federal Rule of Civil Procedure 23 and the due process requirements of the Constitution of the United States.

5. As soon as practicable after the date of this Order, the Notice shall be mailed by first class U.S. Mail, postage prepaid, to all potential members of the Subclasses whose identities and locations are reasonably ascertainable, which may be satisfied by sending the Notice to the addresses of potential Subclass members as maintained by the Federal Milk Market Administrator, plus any additional identified potential Subclass members. In addition, the Summary Notice shall be published as is practicable in multiple publications whose circulation is believed to include Subclass members. Subclass Counsel also shall post the Motion, the Settlement Agreement, the Notice, and this Order on the class action website maintained by the Claims Administrator.

6. No later than 30 days after the entry of this Order, Subclass Counsel shall file any motion for attorneys' fees, reimbursement of expenses, and incentive payments for the Subclass Representatives.

7. The Court will convene a hearing (the "Fairness Hearing") 90 days or more after the entry of this Order, on _____ for the Court to consider (a) whether the Settlement Agreement should be finally approved as fair, reasonable, and adequate to and in the best interests of the Subclasses, and whether Judgment should be entered dismissing the Released Claims on the merits and with prejudice; and (b) whether to approve any application by Subclass Counsel for an award of attorneys' fees, payment of costs and expenses, and incentive awards to the Subclass Representatives. Any Subclass member who follows the procedure set

forth in the Notice may appear and be heard at the Fairness Hearing. The Fairness Hearing may be continued without further notice to the Subclasses.

8. Any member of the Subclass who did not previously exclude themselves from the Subclasses but wishes to be excluded from this Settlement may opt-out of the Settlement by submitting an Exclusion Letter to the Claims Administrator at least fourteen (14) days prior to the Fairness Hearing.

9. Any person who timely requested exclusion from a Subclass may apply to the Court to be reinstated to a Subclass (opt back in) for the purpose of participating in the proposed settlement with Settling Defendants, provided such application is delivered to the Claims Administrator at least fourteen (14) days prior to the Fairness Hearing and otherwise complies with the requirements set forth in the Notice.

10. Any member of the Subclass who objects to the Settlement must do so in writing. The objection must include the caption of this case, be signed, and be filed with the Court no less than fourteen (14) days prior to the Fairness Hearing and shall otherwise comply with the requirements set forth in the Notice. The objection must also be delivered to Subclass Counsel and counsel for Settling Defendants no less than fourteen (14) days prior to the Fairness Hearing. Any response to timely, completed objections must be filed with the Court and served no later than seven (7) days prior to the Fairness Hearing.

11. Any member of the Subclass who wishes to inform the Court of their support of the Settlement may do so in writing. The supporting submission must include the caption of this case, be signed, and be filed with the Court no less than fourteen (14) days prior to the Fairness Hearing and shall otherwise comply with the requirements set forth in the Notice. The supporting submission must also be delivered to Subclass Counsel and counsel for Settling

Defendants no less than fourteen (14) days prior to the Fairness Hearing. Any response to timely, completed supporting submissions must be filed with the Court and served no later than seven (7) days prior to the Fairness Hearing.

12. Subclass members who timely submitted an eligible claim in relation to the 2014 Settlement with DFA and DMS, and who wish to receive payment from this Settlement, do not need to submit a new claim form. Any Subclass Member who wishes to be eligible for a payment as a result of the Settlement, including anyone seeking to opt back in (but not any Subclass member who submitted an eligible claim in relation to the 2014 Settlement), must file a claim no later than fourteen (14) days before the Fairness Hearing.

13. No later than seven (7) business days prior to the Fairness Hearing, Subclass Counsel shall file with the Court, and serve upon counsel for Settling Defendants, affidavits or declarations of the person under whose general direction the mailing of the Notice and the publication of the Summary Notice were made, showing that mailing and publication were made in accordance with this Order. Subclass Counsel shall also identify all requests to be reinstated to either of the Subclasses in this filing.

14. Any Subclass member who seeks to appear and be heard at the Fairness Hearing shall, no later than fourteen (14) business days prior to the Fairness Hearing, send a letter with that request to the Clerk of the Court, Subclass Counsel, and counsel for the Settling Defendants.

15. The Court approves the establishment of the Settlement Fund, as set forth in Section 7 of the Settlement Agreement, as a “Qualified Settlement Fund” pursuant to Treas. Reg. § 1.468B-1. The Court retains continuing jurisdiction over any issues regarding the formation or administration of the Settlement Fund. Subclass Counsel and their designees are authorized to use up to \$100,000 of the Settlement Fund to give notice of the Settlement to Subclass members

and for settlement administration costs, up to \$10,000 of the Settlement fund for escrow agent costs, and such amount of the Settlement Fund as is required to pay taxes on income earned on the Settlement Fund, with prior notice to Settling Defendants. No other disbursements shall be made from the Settlement Fund prior to the Effective Date, as defined in the Settlement Agreement, and then only upon approval and order of the Court.

16. Rust Consulting, Inc. is appointed as Claims Administrator for purposes of notice and administration of the settlement with Settling Defendants. JPMorgan Chase Bank, National Association shall serve as the escrow agent in connection with the Settlement Fund described in Section 7 of the Settlement Agreement.

17. All proceedings against Settling Defendants, except those proceedings provided for or required by the Settlement Agreement, are STAYED until further order of the Court.

18. Subclass members are preliminarily enjoined from the initiation, commencement, or prosecution of any Released Claim against any of the Settling Defendants.

19. All capitalized terms used in this Order shall have the meanings set forth in the Settlement Agreement.

So ordered.

ENTER:

UNITED STATES DISTRICT JUDGE